

**IN THE UNITED STATES DISTRICT COURT OF TENNESSEE
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

99.6207

CRAIG CUNNINGHAM,

PLAINTIFF, PRO SE

v.

**RAPID CAPITAL FUNDING, LLC/RCF
and CRAIG HECKER, GRS TELECOM,
INC., f/k/a CALLER ID4U, INC., PAUL
MADUNO, GIP TECHNOLOGY, INC.,
ADA MADUNO, LUIS MARTINEZ,
MERCHANT WORTHY, INC., ROBERT
BERNSTEIN, BARI BERNSTEIN, MACE
HOROWITZ, SPECTRUM HEALTH
SOLUTIONS, INC. d/b/a SPECTRUM
LEAD GENERATION and JOHN/JANE
DOES 1 - 5,**

DEFENDANTS.

**NO. 3:16-cv-02629
JUDGE ALETA A. TRAUGER
MAGISTRATE JUDGE JOE BROWN**

**MOTION TO DISMISS ON BEHALF OF DEFENDANTS ROBERT BERNSTEIN, BARI
BERNSTEIN AND MERCHANT WORTHY, INC.**

Defendants, Robert Bernstein, Bari Bernstein and Merchant Worthy, Inc., by and through counsel, and pursuant to Rules 8(a), 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure, hereby move this Honorable Court to Dismiss Plaintiff's action against them on the following grounds:

(1) Plaintiff's Complaint fails to set forth sufficient factual allegations against Defendants, Robert Bernstein and Bari Bernstein, pursuant to the pleading requirements of Federal Rules of Civil Procedure 8 and, thus, Plaintiff's action against these Defendants should be dismissed under Rule 12(b)(6) for failure to state a claim upon which relief may be granted.

(2) Dismissal under Federal Rule of Civil Procedure 12(b)(2) is proper because Plaintiff fails to establish personal jurisdiction herein as to Defendants, Robert Bernstein, Bari Bernstein and Merchant Worthy, Inc.

In support of this Motion, Defendants rely upon the pleadings in this case and the Affidavit of Robert Bernstein and Memorandum of Law filed contemporaneously herewith which are incorporated by reference.

WHEREFORE, Defendants, Robert Bernstein, Bari Bernstein and Merchant Worthy, Inc., respectfully ask this Honorable Court to dismiss Plaintiff's Amended Complaint against them pursuant to Rules 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure for failure to meet the pleading and jurisdictional requirements of the same.

Respectfully submitted,

McNABB, BRAGORGOS & BURGESS, PLLC

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CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing has been served electronically through the U.S. District Court for the Middle District of Tennessee's EFC system and via U.S. Mail, postage prepaid, on this the 18th day of November, 2016, upon opposing counsel for all parties or all parties individually as follows:

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